

Appl. No. 10/804,362
Amdt. dated June 8, 2006
Reply to Office action of Feb. 9, 2006

Remarks:

Applicant thanks Examiner Frank for his careful examination of this application and clear explanation of the claim rejection. In response to the Office Action of February 9, 2006, applicant respectfully traverses the rejection for the following reason:

This application, filed on March 18, 2004, as a result of an USPTO restriction requirement set forth in an Office Action of October 1, 2003, is a divisional application of Serial No. 09/921,214, which was issued on April 20, 2004 as US Patent No. 6,723,172 B2.

Applicant respectfully submits that the double patenting rejection against claim 16 is improper because it is clearly stated in the MPEP that:

The third sentence of 35 U.S.C. 121 prohibits the use of a patent issuing on an application with respect to which a requirement for restriction has been made, or on an application filed as a result of such a requirement, as a reference against any divisional application, if the divisional application is filed before the issuance of the patent.¹

Respectfully submitted,
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¹ MPEP 804.01